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4 Attorney for Plaintiff/Counterclaim-Defendant  
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6 **UNITED STATES DISTRICT COURT**  
7 **CENTRAL DISTRICT OF CALIFORNIA**  
8

9 Case No. SACV11-01309-DOC(ANx)

10 JAMES R. GLIDEWELL DENTAL  
CERAMICS, INC. DBA  
11 GLIDEWELL LABORATORIES, a  
California corporation,

12 Plaintiff

13 vs.

14 KEATING DENTAL ARTS, INC., a  
15 California corporation,

16 Defendant.  
17

**PLAINTIFF'S/COUNTERCLAIM-  
DEFENDANT SECOND REQUEST  
FOR PRODUCTION OF  
DOCUMENTS AND THINGS NOS.  
43-51**

18 KEATING DENTAL ARTS, INC., a  
California corporation,

19 Counterclaim-Plaintiff,

20 vs.

21 JAMES R. GLIDEWELL DENTAL  
22 CERAMICS, INC., DBA  
GLIDEWELL LABORATORIES, a  
23 California corporation, and  
DOES 1 THROUGH 5, inclusive,

24 Counterclaim-Defendants.  
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26 Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Plaintiff  
27 James R. Glidewell Dental Ceramics, Inc., dba Glidewell Laboratories having  
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1 a business address at 4141 MacArthur Boulevard Newport Beach, California  
 2 92660 (hereinafter "PLAINTIFF"), hereby requests that Defendant, Keating  
 3 Dental Arts, Inc. having a business address at 16881 Hale Avenue, Irvine,  
 4 California 92606 (hereinafter "DEFENDANT"), within thirty (30) days of  
 5 service hereof, answer the following document requests and produce for  
 6 inspection and copying the requested documents and things that are in  
 7 possession, custody, or control of the DEFENDANT and provide such  
 8 answers in writing to attorney for PLAINTIFF, Leonard Tachner.

### 11 **INTRODUCTION AND DEFINITIONS**

13 These document requests seek answers as of the date hereof, but shall  
 14 be deemed to be continuing so that any additional information relating in any  
 15 way to these document requests which DEFENDANT acquires, or which  
 16 becomes known to DEFENDANT, up to and including the time this Action is  
 17 finally concluded, shall be furnished to PLAINTIFF immediately after such  
 18 information is acquired or becomes known.

20 1. As used herein, the terms "DOCUMENT" and "THING" are  
 21 defined in their customary broad sense as described in Rule 34 of the Federal  
 22 Rules of Civil Procedure and shall include, without limitation, originals and  
 23 copies of all correspondence, literature, papers, memoranda, reports, notes,  
 24 diaries, messages, telegrams, books, letters, ledgers, drawings, photographs,  
 25 publications, advertisements, brochures, price lists, recordings, invoices, and  
 26 any other documents or things within the scope of Rule 34 of the Federal  
 27 Rules of Civil Procedure.

1           2.     As used herein, the term "RELATING TO" shall mean  
2 supporting, respecting, regarding, concerning, pertaining to, referring to,  
3 stating, establishing, evidencing, showing, describing, recording, noting,  
4 reflecting, embodying, memorializing, containing, mentioning, studying,  
5 analyzing, or discussing, either directly or indirectly.

6           3.     As used herein, the term "PERSON" shall mean both natural  
7 personals and corporate or other business entities, whether or not in the  
8 employment of the DEFENDANT.

9           4.     As used herein, the term "KDZ BRUXER" shall mean the  
10 designation KDZ BRUXER as cited in U.S. Application Serial No.  
11 85/287,029, before the United States Patent and Trademark Office.

12           5.     As used herein, the term "DEFENDANT" shall mean Keating  
13 Dental Arts, Inc., its predecessor, successor, any entity that has been under  
14 common ownership or control in any manner with Keating Dental Arts, Inc.,  
15 any entity which has granted or assigned rights to Keating Dental Arts, Inc. for  
16 "KDZ BRUXER", any entity which has granted Keating Dental Arts, Inc., or  
17 assigned rights for Keating Dental Arts, Inc., and the present and former  
18 directors, officers, employees, agents, attorneys and representatives of any of  
19 the above-described entities.

20           6.     As used herein, the term "PLAINTIFF" shall mean James R.  
21 Glidewell Dental Ceramics, Inc. dba Glidewell Laboratories, its predecessor,  
22 successor, any business entity that has been under common ownership or  
23 control in any manner with James R. Glidewell Dental Ceramics, Inc. dba  
24 Glidewell Laboratories, and the present and former officers, directors,  
25 employees, agents, attorneys and representatives of the above-described  
26 entities.

1           7. As used herein, the term "AGREEMENT" shall mean any  
2 proposed or binding contract that may either be oral or written, and may  
3 include but is not limited to, assignment agreement, license agreement,  
4 consent of use agreement, sales agreement, distributorship agreement,  
5 franchise agreements, etc.

6           8. As used herein, the term "OFFER FOR SALE" shall include any  
7 conjugated version of offer for sale, any referenced offer as well as any  
8 resulting sale.

9           9. As used herein, the term "PROMOTIONAL MATERIALS" shall  
10 mean any advertising and/or promotional materials, including but not limited  
11 to, newspaper, journal and magazine ads, radio ads, television ads, pamphlets,  
12 catalogs, brochures, fliers, mailers, sales person training materials, warranty  
13 policies, etc.

14           10. As used herein, the term "GOODS" shall mean any services  
15 and/or goods referred to in Application Serial No. 85/287,029.

16           11. The singular shall be deemed to include the plural and vice versa.  
17 The masculine shall be deemed to include the feminine and vice versa.

1 REQUEST NO. 43:

2 All DOCUMENTS and THINGS RELATING TO whether dentists who  
3 purchase KDZ BRUXER crowns use them to repair teeth damaged by  
4 bruxism.

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6 RESPONSE:  
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9 REQUEST NO. 44:

10 All DOCUMENTS and THINGS RELATING TO the percentage of  
11 KDZ BRUXER crowns used to repair teeth damaged by bruxism as compared  
12 to other uses of such crowns.  
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14 RESPONSE:  
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17 REQUEST NO. 45:

18 All DOCUMENTS and THINGS RELATING TO any third party  
19 selling or offering to sell a ceramic restoration under a trademark having the  
20 term BRUX as a part or portion thereof.  
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22 RESPONSE:  
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1 REQUEST NO. 46:

2 All DOCUMENTS and THINGS RELATING TO surveys, studies, or  
3 research papers conducted by Defendant or on behalf of Defendant in regard  
4 to alleged genericness of the BRUXZIR mark.

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6 RESPONSE:  
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9 REQUEST NO. 47:

10 All DOCUMENTS and THINGS RELATING TO communications  
11 received by Defendant from dentists or dental offices that relate to alleged  
12 genericness of the BRUXZIR mark.

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14 RESPONSE:  
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17 REQUEST NO. 48:

18 All DOCUMENTS and THINGS RELATING TO complaints, returns,  
19 grievances, or criticisms of Defendant's products sold under the KDZ  
20 BRUXER mark.

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22 RESPONSE:  
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1 REQUEST NO. 49:

2 All DOCUMENTS and THINGS RELATING TO communications  
3 between Keating Dental Arts and third parties in regard to the BRUXZIR  
4 mark being allegedly generic or descriptive.

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6 RESPONSE:  
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9 REQUEST NO. 50:

10 All DOCUMENTS and THINGS in which the term BRUXZIR is used  
11 generically or descriptively.

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13 RESPONSE:  
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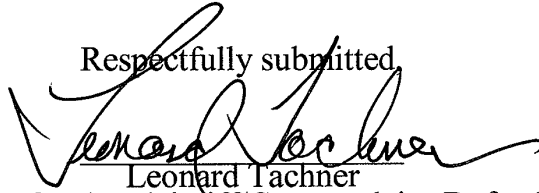
16 REQUEST NO. 51:

17 All DOCUMENTS and THINGS received by Defendant from its dentist  
18 customers which refer to either of the terms BRUXZIR or bruxer and are dated  
19 prior to May, 2011.

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21 RESPONSE:  
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Respectfully submitted



Leonard Tachner  
Attorney for the Plaintiff/Counterclaim-Defendant  
17961 Sky Park Circle  
Suite 38-E  
Irvine, California 92614

Dated: September 21, 2012

(949) 752-8525 Telephone  
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### PROOF OF SERVICE

I am a resident of the state of California, I am over the age of 18 years, and I am not a party to this lawsuit. My business address is 17961 Sky Park Circle, Suite 38-E, Irvine, California 92614. On September 21, 2012, I served the following document(s) in the manner indicated:

1. Plaintiff's/Counterclaim-Defendant Second Request For Production Of Documents And Things Nos. 43-51

- ☐ via electronic means by the Court's electronic filing system CM/ECF.
- ☒ by placing the document(s) listed above in a sealed envelope to the person at the address set forth below by postage prepaid United States First Class mail on the same date set out below.

Lynda J. Zadra-Symes Esq.  
Jeffrey L. Van Hoosear, Esq.  
Knobbe, Martens, Olson & Bear, LLP  
2040 Main Street, Fourteenth Floor  
Irvine, CA 92614

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed September 21, 2012 at Irvine, California.

  
\_\_\_\_\_  
Jodie Miller

Case No.: SACV11-01309-DOC(ANx)  
CERTIFICATE OF SERVICE